Royalty Suspension Provisions
Western Gulf of Mexico Oil and Gas Lease Sale 192
Proposed Notice of Sale

In accordance with applicable regulations at 30 CFR 260, the following royalty suspension provisions apply to Western GOM Oil and Gas Lease Sale 192:

A. The following Royalty Suspension Provisions apply to Shallow Water Deep Gas Production:

The royalty suspension volumes, conditions, and requirements prescribed in 30 CFR 203.40 through 203.47 (effective March 1, 2004), published at 69 FR 3492 through 3514 on January 26, 2004, apply to shallow water deep gas production from a lease issued as a result of this sale. Definitions that apply to this category of royalty relief can be found in 30 CFR 203.0. To receive this category of royalty relief, production from a qualified well or drilling of a certified unsuccessful well must commence before March 1, 2009.

B. The following Royalty Suspension Provisions apply to Deepwater Oil and Gas Production. In addition, to these provisions, refer to 30 CFR 218.151 and applicable parts of 260.120-260.124 for regulations on how royalty suspensions relate to field assignment, product types, rental obligations, and supplemental royalty relief.*
[Note: The MMS continues to study the issue of establishing appropriate price thresholds for deepwater production and will make a final decision for this sale in the final Notice of Sale (scheduled for July 2004).]

1. A lease in water depths 400 meters or deeper will receive a royalty suspension as follows:

   400 meters to 799 meters: 5 million barrels of oil equivalent (BOE)
   800 meters to 1599 meters: 9 million BOE
   1600 meters and deeper: 12 million BOE

2. The lessee must pay royalty on production that would otherwise receive royalty relief under 30 CFR 260 or supplemental relief under 30 CFR 203, and such production will count towards the royalty suspension volume, in any calendar year during which the arithmetic average of the closing prices for the nearby delivery month on the NYMEX for the applicable product exceeds the adjusted product price threshold.

   a) The base level price threshold for light sweet crude oil was set at $32.27 per barrel in 2002. (This is equivalent to $28 in 1994.) The adjusted oil price threshold in any subsequent calendar year is computed by changing the base price by the percentage by which the implicit price deflator for the gross domestic product has changed.

   b) The base level price threshold for natural gas was set at $4.03 per MMBTU in 2002. (This is equivalent to $3.50 in 1994.) The adjusted gas price threshold in any subsequent calendar year is computed by changing the base price by the percentage by which the implicit price deflator for the gross domestic product has changed.

   c) As an example, suppose the computation for the implicit price deflator is 1.6% in 2003. Then the adjusted price threshold would become $32.79 for light sweet crude oil and $4.09 for natural gas in 2003. Royalty on such production in calendar year 2003 would be due if the 2003 average NYMEX price exceeds $32.79 per barrel or $4.09 per MMBTU.

   d) The MMS plans to provide notice in March when adjusted price thresholds for the preceding year were exceeded. Once this determination is made, based on the then most recent implicit price deflator information, any subsequent adjustments in the implicit price deflator published by the U.S. Government will not affect the determination previously made for that year by MMS regarding lessee qualification for royalty relief. Information on price thresholds is available at the MMS website (www.mms.gov/econ).

   e) In cases where the actual average price for the product exceeds the adjusted price threshold in any calendar year, royalties must be paid no later than 90 days after the end of the year (see 30 CFR 260.122 (b)(2) for more detail) and royalties must be paid provisionally in the following calendar year. (See 30 CFR 260.122 (c) for more detail.)

3. There are no circumstances under which a single lease could receive a royalty suspension both for deep gas production and for deepwater production.

*The recent federal district court decision in a case **Santa Fe, Snyder, et al. v. Norton** (U.S.D.C., W.D. La, Docket No.2:00-CV-1641) declared the regulations at 30 CFR 260.112–260.117 invalid. These regulations deal only with deep water leases issued in the 1996-2000 period (Eligible leases). This court decision has no effect on the royalty relief for deep water leases that will be issued in this lease sale because each lease gets its own royalty suspension volume regardless of the field to which it is eventually assigned. One provision, not mentioned in but affected by this decision, 30 CFR 260.124(b), deals with the sharing of relief on fields consisting of leases issued in the 1996-2000 period and leases issued in subsequent sales, including this one. If the district court's decision continues in force, production from leases issued in this sale may not have any bearing on the royalty suspension volume that Eligible leases may ultimately use on a field, contrary to provisions now in 30 CFR 260.124(b)(1). Moreover, your lease acquired in this sale may not produce royalty-free in excess of the suspension volume with which we issued it except as provided in 30 CFR 260.124(c).